

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SHERWIN A. MURRELL

Plaintiff

-against-

FIRST AMENDED  
COMPLAINT  
PLAINTIFFS DEMAND  
TRIAL BY JURY

THE CITY OF NEW YORK,  
SGT. HENG PEOU, Shield # 5199, Police Officer  
MICHAEL PEDRONE, Sh. # 6071, Police Officer TINA  
EVERETT, Sh. # 19071, Police Officer JOSE HIGA,  
Sh. # 31380, Police Officer FRANCISCO TAVARES,  
Sh. # 31829, Police Officer BRIAN TILLMAN, Sh. # 23206  
and Police Officer MICHAEL PARKS Sh. # 13520

07 cv 5609

Defendants  
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THIS ACTION IS ASSIGNED TO JUDGE McMahon AND WAS FILED  
ELECTRONICALLY

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF  
SHERWIN MURRELL

1. This is a civil action for damages brought pursuant to redress the deprivation by defendants of the rights secured to plaintiff under the Constitution and laws of the United States and State of New York. The defendants, upon information & belief, without a warrant and without probable cause, unlawfully entered the home of, assaulted, arrested and falsely imprisoned the plaintiffs.

2. That the jurisdiction of this Court is invoked under the provisions of Section 1331 & 1383 of Title 28 and Sections 1983 & 1988 of Title 42 of the United States Code . Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law. The amount in controversy exceeds \$75,000.00 excluding costs and attorney's fees.

3. That at all times hereinafter mentioned, the plaintiff SHERWIN MURRELL was and still is a resident of the County of Kings, City & State of New York.

4. Upon information and belief the defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under the laws of the City and State of New York.

5. That the defendant Sgt. HENG PEOU, Sh. # 5199 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

6. That the defendant Police Officer MICHAEL PEDONE, Sh. # 6071 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

7. That the defendant Police Officer TINA EVERETT Shield # 19071 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

8. That the defendant Police Officer JOSE HIGA Shield # 31380 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

9. That the defendant Police Officer FRANCISCO TAVARES, Sh. # 31829 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

10. That the defendant Police Officer BRIAN TILLMAN Shield # 23206, was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

11. That the defendant POLICE OFFICER MICHAEL PARLS, Shield # 13520, was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

12. That the plaintiff did on or about the 15<sup>th</sup> day of May, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

13. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

14. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions precedent to the commencement of this action.

15. That on or about the 1st day of May, 2007 the plaintiff SHERWIN A. MURRELL was present at or near 585 DeKalb Avenue, County of Kings, City & State of New York.

16. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, assaulted and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

17. That by reason of the foregoing the plaintiff suffered serious and severe physical and psychological injuries some of which, upon information & belief are permanent in nature.

18. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION ON  
BEHALF OF THE PLAINTIFF SHERWIN A. MURRELL

19. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "17" with the same force

and effect as if more fully set forth at length herein.

20. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers, who were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately twenty four hours.

21. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION ON  
BEHALF OF THE PLAINTIFF SHERWIN A. MURRELL

22. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "17" with the same force and effect as if more fully set forth at length herein.

23. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was maliciously prosecuted by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers, who were agents, servants & employees of the defendant THE CITY OF NEW YORK.

24. That the prosecution of the plaintiff continued even though the aforementioned defendants knew it was false & baseless.

25. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF  
THE PLAINTIFF SHERWIN A. MURRELL

26. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "21" with the same force and effect as if more fully set forth at length herein.

27. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

28. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

29. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION  
ON BEHALF OF THE PLAINTIFF SHERWIN MURRELL

30. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "17" with the same force and effect as if more fully set forth at length herein.

31. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

32. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

WHEREFORE, the plaintiff demands judgment upon each cause of action as follows:

- a. Compensatory damages in an amount which this Court shall consider to be just and fair:
- b. Punitive and exemplary damages in an amount which this Court shall consider to be just & fair;
- c. Attorney's fees in an amount which this Court shall consider just & fair;
- d. Together with the costs and disbursements of this action and such other and further relief which this Court may seem just & proper.

DATED: BROOKLYN, NY  
January 18, 2008

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MICHAEL COLIHAN (MC-0826)  
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